

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ILLINOIS TOOL WORKS INC.,)	
<i>Plaintiff and Counterclaim-Defendant,</i>)	Case No. 10-cv-3978
)	
v.)	Judge James B. Zagel
)	
DMOCOE, Inc., et al.)	Magistrate Judge Michael T. Mason
<i>Defendants and Counterclaim-Plaintiffs.</i>)	

**JOINT MOTION TO ENTER JUDGMENT ON INFRINGEMENT CLAIM
AND TO DISMISS COUNTERCLAIMS**

Plaintiff, Illinois Tool Works Inc. (“ITW”), and Defendants DMOCOE, Inc., Inpro/Seal LLC and Waukesha Bearings Corporation (collectively “Defendants”), jointly move this Court to (1) enter judgment in favor of Defendants on ITW’s infringement claim and Defendants’ counterclaim for declaratory relief of non-infringement (counterclaim count I) and (2) to dismiss without prejudice Defendants’ remaining counterclaims (counterclaim counts II – IV).

In its Markman decision, this Court construed in Defendants’ favor two terms on which ITW’s infringement claim hinged. As reflected in the attached Stipulation (Exhibit A), ITW concedes that Defendants’ accused device does not infringe any claim of U.S. Patent No. 7,193,836 under the Court’s claim construction.

The parties therefore jointly ask this Court to:

(1) Enter judgment under Fed. R. Civ. P. 58 in Defendants’ favor on ITW’s infringement claim and Defendants’ counterclaim for declaratory relief of non-infringement (counterclaim count I), without waiving ITW’s right to appeal from that judgment for the purpose of challenging the underlying claim construction;

(2) Dismiss Defendants' remaining counterclaims (counterclaim counts II – IV) without prejudice, without waiving the Defendants' right to reassert any or all of these claims in this action or another, including but not limited to in the event that the appellate court remands the case to the district court; and

(3) Order that each party bear its own costs.

Dated: May 23, 2012

By: /s/ Marina N. Saito

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CERTIFICATE OF SERVICE

I, Marina N. Saito, counsel for Plaintiff Illinois Tools Works Inc., certify that on this 23rd day of May, 2012, I electronically filed the foregoing via the Court's Electronic Case Filing System ("ECF"), which will send a notice of filing to the following:

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